

U.S. Application Serial No. 10/614,436

### REMARKS

Applicant would initially like to thank the Examiner for indicating that the Affidavit filed by Applicant is sufficient to overcome the Simens reference, and for withdrawing the finality of the Final Office Action.

Applicant respectfully requests the Examiner to reconsider the present application in view of the above amendments and following remarks:

1. Drawings:

The drawings are objected to because of line quality. Applicant desires to comply with the Examiner's request, and shall, at the appropriate time, provide corrected drawings to overcome the Examiner's rejection. Nevertheless, Applicant respectfully requests the Examiner to initially address the substantive issues relating to the status of the claims, as discussed below, so that Applicant will know in advance whether the application is allowable (on substantive issues) before having to obtain and submit the formal drawings.

2. Section 103 Rejections:

Claims 30-33, 36, 38 and 40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria), and Claim 39 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs in view of Herzfeld et al.

Applicant would initially like to point out that in the Final Office Action, the Examiner admitted that "Higgs fails to disclose . . . a multi-level parking garage having a second top floor thereon, wherein an events center is located on top of said second parking garage." In doing so, the Examiner asserted that Simens teaches these features, and therefore, it would have been obvious to modify Higgs, in view of Simens, i.e., to come up with an events center located on top of the second garage.

Now, after the Examiner has learned that Simens is not prior art, the Examiner makes a seemingly contradictory statement regarding Higgs, i.e., that Higgs does disclose an events center located on top of a second multi-level parking garage, contrary to his earlier statements.

This has led to some confusion on the part of the Applicant regarding the Examiner's position. Notwithstanding this confusion, and in the abundance of caution, Applicant has amended the claims, in response to the current Office Action. In this

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respect, Applicant has modified the claims to specify additional features which Applicant respectfully submits are neither disclosed nor suggested by Higgs.

For example, new independent Claims 41, 47 and 51 each specify the following aspects of Applicant's invention:

- a. "A second building for housing a projector substantially constructed as an extension of said parking garage . . . said second building . . . located at a first end of said parking garage, and . . . said screen . . . located on a second end of said parking garage, opposite said first end." Higgs does not show this feature. For example, the tent shown on top of the parking garage in Higgs is not an extension of the parking garage. Also, as shown in drawing 6 of Higgs, the screen extends from the second building itself, and faces away from the second building, whereas, in Applicant's invention, the screen is on the opposite end of the parking garage, facing the second building. The significance of this relates to the shielding effect provided by the screen's position, as described in more detail below.
- b. "Said screen, and said first and second buildings, form a substantial visual barrier extending around three sides of said top parking level, to substantially block the view of the screen from outside." Higgs does not show this feature. Again, Higgs shows a screen on the second building, in which case, the parking garage is only shielded on two sides, i.e., by the shopping mall structure, and screen/second building. In Applicant's invention, a visual barrier is formed around three sides of the parking garage, i.e., by the shopping mall structure, the second building, and the screen. The tent-like structure of Higgs is lower than the second building, is not an extension of the parking garage, and does not provide adequate shielding from outside.

For the above reasons, Applicant respectfully submits that Applicant's invention as now set forth in Claims 41, 47 and 51 are distinguishable over Higgs.

Moreover, contrary to what the Examiner contends, Applicant respectfully submits that Higgs does not show an events center located on top of a second parking garage. Higgs merely shows a parking area around the events center, but Higgs does not make any statement or claim that the events center is located directly on top of the second parking garage. Therefore, Applicant respectfully submits that, for these additional reasons, claims 41 and 47, which specify an events center located on top of a second parking garage, are distinguishable over Higgs.


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Applicant also respectfully submits that neither Herzfeld et al., nor any other cited reference, shows or describes a short range radio sound system for a drive-in movie theater on top of a parking garage, as set forth in claims 41, 44-46, and 55-59, nor a system designed to allow only cars located on, or substantially near, the top parking level to receive transmissions from the transmitter, as set forth in claims 41 and 55. Higgs mentions nothing about the sound system, and Herzfeld et al. does not suggest or teach using a short range sound system on top of a parking garage, nor one where the broadcast range is limited to the top level of the parking garage. Applicant respectfully submits that, for these additional reasons, claims 41, 44-46, and 55-59 are distinguishable over Higgs, Herzfeld, and any other prior art cited in this case.

3. Conclusion:

For all of the above reasons, Applicant respectfully submits that the new claims are in condition for allowance, and, subject to having an opportunity to amend and correct the drawings, earnestly requests the Examiner to enter a Notice of Allowance in this case.

Respectfully submitted,

  
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